



Erie County Industrial Development Agency
143 Genesee Street
Buffalo, NY 14203
www.ecidany.com

Solicitation For:

Real Estate Broker Services
(Including sales/lease analysis & pricing opinions)

Issued: March 4, 2013

Questions (if any) Due: March 13, 2013

Responses Due: March 20, 2013, 4pm (local time)

Required Submission: Four (4) Copies of Response (including Attachment A - C)+ One (1) electronic copy on a USB flash drive or via email

I. INTRODUCTION

A. Request for Proposals (RFP)

The Erie County Industrial Development Agency ("ECIDA") is requesting a proposal for professional real estate broker services from NYS licensed, commercial real estate brokers in regards to its current 143 Genesee Street, Buffalo, New York office location.

The Board of the ECIDA is seeking professional real estate assistance to determine whether to sell or lease the current facility as it pursues a relocation of its offices to 95 Perry St., Buffalo, NY to co-locate with the offices of the Empire State Development Corporation. In particular, the ECIDA Board is interested in knowing the approximate lease income it could reasonably expect to generate from the property and the expected timeline / likelihood of leasing the property. In addition, the Board is also interested in knowing the approximate potential sales value and the expected timeline / likelihood for selling the property. The Board of the ECIDA is anticipated to make a decision to sell or lease the property at its April 22, 2013 Board meeting. The selected broker would then be expected to list the property for either sale or lease and negotiate on the ECIDA's behalf to obtain the best terms.

The ECIDA is under no obligation whatsoever to list the property with the winning bidder.

Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the ECIDA and the firm selected.

There is no expressed or implied obligation for the ECIDA to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

B. Designated Contacts – Procurement Lobbying Law

Andrew Schoeppich	Chief Financial Officer	aschoeppich@ecidany.com
Phil Riggs	Facilities, Rail & Site Mgmt	priggs@ecidany.com

C. Questions

Any questions related to this RFP must be submitted in writing via email to the Designated Staff identified in Section B above and received no later than March 13, 2013. All questions will be answered in writing within three (3) business days and copies of the questions and answers will be distributed to all RFP recipients and posted online simultaneously.

II. DESCRIPTION OF THE AGENCY & PROPERTY

A. Background Information

The Erie County Industrial Development Agency (ECIDA) is a public benefit corporation created in 1970 by an act of the New York State Legislature. The mission of the Erie County IDA is to provide the resources that encourage investment, innovation, and international trade - creating a successful business climate that improves the quality of life for the residents of the region.

B. Property Information

The ECIDA currently owns a one-story, 12,803 gross sq. ft office building located at 143 Genesee Street at the corner of Oak & Genesee Streets in downtown Buffalo, New York. Under an easement agreement with its neighbor, Enterprise Charter School, the property has a permanent easement for 24 onsite designated parking spots in a surface lot adjacent to the building. In addition, the ECIDA currently has an agreement with the Enterprise Charter School to lease an additional 11 parking spots during four working days each month for meetings and other events.

The building has a new fully adhered rubber membrane roof (2011), all new rooftop HVAC units (2012 (1), 2007 (2)) and new entranceway improvements (2011). In addition, a number of green features have been added including: a building control system, lighting sensors and onsite discharge of storm water.

The building has high visibility and has excellent access to/from the Kensington Expressway/Route 33 as well as Interstate 190. The property is within walking distance of the expanding Buffalo Niagara Medical Campus and the Downtown business district.

The adjacent properties have seen significant investments in recent years, including the \$16 million Genesee Gateway project and the \$32.6 million Catholic Health project currently under construction.

C. Property Availability

The property is anticipated to be available for occupancy on or about October 1, 2013.

III. TIME REQUIREMENTS

A. Proposal Calendar

The following is a list of key dates up to and including the date proposals are due to be submitted:

Requests for proposals issued	March 4, 2013
Due date for proposals	March 20, 2013 (4PM - local time)

B. Notification Dates

Selected broker firm expected to be notified	March 27, 2013
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C. ECIDA Meeting Dates

Audit & Finance Committee	TBD (approx. April 15, 2013)
Board Meeting	April 22, 2013

The ECIDA Audit & Finance Committee and the ECIDA Board are expected to decide whether to pursue the sale and/or lease of the building at the above meetings. The selected broker would be expected to have completed their real estate advisory services prior to the Audit & Finance Committee meeting.

IV. PROPOSAL REQUIREMENTS

A. Proposal Requirements

Each Proposal should be no more than ten (10) pages in length and include the following:

1. Qualifications and Experience of the Firm

- Describe the firm's headquarters, branch or affiliate offices and length of time in business. Identify the number of agents at the local office.
- List the local firm's most significant office transactions within the last five (5) years that are similar to the ECIDA.
- Discuss how your firm would market the property and to whom.

2. Qualifications and Experience of the NYS Licensed Real Estate Broker

- Identify the key New York State licensed real estate broker(s) who will be assigned to this transaction, identify their office location and provide a condensed biography(ies), including a listing of office transactions within the last five (5) years.
- Identify the individual's skills in negotiation and market/financial analysis.
- Provide the name, address, phone number and email for other similar clients of the individual(s) who will be assigned to this engagement, for reference purposes.

3. All-Inclusive Cost

Fully identify your fees for the following:

- a) Real Estate Advisory Service – to provide a sale / lease analysis and pricing opinions
- b) Commission fee for a sales transaction
- c) Commission fee for a lease transaction

Also, if applicable, indicate the nature and amount of any other costs that you would charge for each of the above. Finally, if your fee for a) is included in your transaction fees (b or c), please indicate what this fee would be if the Board determines that it will not sell/lease the property.

4. Submission of Proposal:

Firms should send four (4) hard copies of the completed proposal and one (1) electronic copy on a USB flash drive or via email to the following address by March 20, 2013 - 4PM (local time):

Erie County Industrial Development Agency
Attn: Andrew Schoepich, CFO
143 Genesee Street, Buffalo, New York 14203
aschoepich@ecidany.com

During the evaluation process, the selection committee reserves the right, where it may serve the ECIDA's best interest, to request additional information or clarifications from proposers, or to allow corrections of errors or omissions.

The ECIDA reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected.

Proposals submitted under this request for proposal are subject to public disclosure under the New York State Freedom of Information Law.

V. EVALUATION PROCEDURES

A. Initial Review of Responses

A Selection Committee comprised of ECIDA staff members will initially evaluate each firm's response.

Minimum Requirements:

1. New York State licensed broker
2. Submission of complete response by due date/time.
3. Completion of Attachments A - C.

The Selection Committee will then select the responses which are most advantageous to the ECIDA based on the following scoring criteria:

- 1) Qualifications and experience of the brokerage firm. (25%)
- 2) Qualifications and experience of the broker and other assigned staff. (35%)
- 3) Proposed Fee to lease or sell (40%)
- 4) Submission of Proposal by due date.

B. Notification

It is expected that the broker will be selected and notified by March 27, 2013.

Any broker selected for final consideration will be required to provide evidence of professional certification and proof of insurance coverage.

Following the notification of the selected firm it is expected that an agreement will be executed between both parties shortly thereafter.

C. Right to Reject Proposals

The ECIDA reserves the right without prejudice to reject any or all proposals.

NEW YORK STATE FINANCE LAW REQUIREMENTS

Permissible Contacts

Pursuant to State Finance Law §§139-j and 139-k, this Solicitation/Request for Proposal includes and imposes certain restrictions on communications between the ECIDA and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit Request for Proposals through the final award and approval of the Procurement Contract by the ECIDA and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified on page 1 of this solicitation. ECIDA employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is barred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

Offerer/Bidder’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

State Finance Law §139-j(6)(b) requires that the ECIDA seek written affirmations from all Offerers/Bidders as to the Offerer’s/Bidder’s understanding of and agreement to comply with the ECIDA’s procedures relating to permissible contacts (described above) during a Governmental Procurement pursuant to subdivision three of this section. It is recommended that this affirmation be provided to the ECIDA as early as possible in the procurement process, such as when the Offerer/bidder submits its proposal or bid. Attachment A may be used to satisfy this requirement.

Offerer’s/Bidder’s Certification of Compliance with State Finance Law §139-k(5)

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer/Bidder that all information provided to the ECIDA with respect to State Finance Law §139-k is complete, true and accurate. It is recommended that the certification be provided to the ECIDA as early as possible in the process, such as when an Offerer/Bidder submits its proposal, bid or other form of offer. Attachment B may be used to satisfy this requirement.

Offerer/Bidder Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates the ECIDA to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer/bidder must disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State

Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer/bidder fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with the law, no Procurement Contract shall be awarded to any Offerer/bidder that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer/bidder is necessary to protect public property or public health safety, and that the Offerer/bidder is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

The ECIDA must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. Attachment C entitled “Offerer Disclosure of Prior Non-Responsibility Determinations” must be completed by the Offer/Bidder and submitted to the ECIDA.

Public Disclosure

Responses submitted under this Request for Proposals are subject to public disclosure under the New York State Freedom of Information Law. If the respondent does not want certain data disclosed for any purpose other than for the evaluation of the submitted proposal, the respondent must prominently identify sections or pages of the response which they wish to have restricted. Such sections shall be restricted from disclosure, if allowed by law.

Contract Termination Provision

New York State Finance Law §139-k (5) provides that every procurement contract award subject to the provisions of State Finance Law §§139-k and 139-j contain a provision authorizing the ECIDA to terminate the contract in the event that the certification is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes, but does not mandate, termination. “Governmental Entity” and “procurement contract” are defined in State Finance Law §139-k(1). If a contract is terminated in accordance with State Finance Law §139-k (5), the ECIDA is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

ECIDA Termination Provision

Pursuant to New York State Finance Law §139-k(5), the ECIDA reserves the right to terminate any contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139k was intentionally false or intentionally incomplete. Upon such finding, the ECIDA may exercise its termination rights by providing written notification to the Offer/Bidder in accordance with the written notification terms of this contract.

ATTACHMENT A

Affirmation of Understanding & Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

I affirm that I understand and agree to comply with the procedures of the ECIDA relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

ATTACHMENT B

Offerer/Bidder Certification:

I certify that all information provided to the ECIDA with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

ATTACHMENT C

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No

Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No

Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No

Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the ECIDA with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____
Signature

Name: _____ Title: _____